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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

ALLSTATE INSURANCE COMPANY,)
)
Plaintiff,)
)
vs.)
)
CAROLINE PROSSER,)
)
Defendant.)

Case No. A05-060-CI (JWS)

**ALLSTATE'S REPLY REGARDING MOTION FOR SUMMARY JUDGMENT
DISMISSING PROSSER'S PUNITIVE DAMAGES CLAIMS**

Defendant Caroline Prosser ("Prosser") has filed what she characterizes as an opposition to plaintiff Allstate Insurance Company's ("Allstate") summary judgment motion seeking dismissal of Prosser's punitive damages claims in this case. Prosser's opposition, however, concedes that she is not entitled to recover punitive damages under the umbrella policy ("PUP") at issue. Prosser also has filed her own cross-motion for summary judgment, seeking a ruling that she is entitled to

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Allstate's Reply Regarding Motion for Summary Judgment

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present evidence supporting an award of punitive damages to the jury at trial even though she admittedly cannot recover punitive damages under the PUP.

Prosser's admission that punitive damages are not available under the PUP is dispositive of all issues regarding punitive damages in this case.

This case does not involve questions of whether Prosser may have been able to assert punitive damages against her assailants had she sued them.

Rather, the sole issue in this case is the determination of what, if any, amounts Prosser may be entitled to recover under the PUP's UM coverage.

And because there is no coverage for punitive damages under the PUP, Allstate is entitled to summary judgment dismissing Prosser's punitive damages claims.

As further support for this Reply, Allstate incorporates by reference the arguments stated in its Opposition to Prosser's Motion for Summary Judgment on Punitive Damages, also filed on this date.

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Dated: February 13, 2007

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CERTIFICATE OF SERVICE

I certify that on this the 13th day of February, 2007, a true and correct copy of the foregoing document, and attachments if any, were served electronically upon the following counsel of record:

William L. Choquette, Esq.
Choquette & Farleigh, LLC
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s/Barry J. Kell

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